REMARKS

This amendment is in response to a final Office action (Paper No. 43) mailed April 4, 2006. Upon entry of this amendment, claims 1, 2, 17, 25, 26, 29, 30, 31, 33-43, 45-49, 51, 53-56 and 58-60 will be pending. Applicant has canceled claim 57 without prejudice or disclaimer as to its subject matter by this amendment and has amended claims 58 through 60 by this amendment.

Rejection of Claim 57 under 35 U.S.C. §103(a)

In Paper No. 43, the Examiner has finally rejected claim 57 under 35 U.S.C. §103(a) as being unpatentable over Bertram (US 5,198,802), but deemed depending claims 58 through 60 as being allowable if rewritten in independent form. Applicant has rewritten claims 58 through 60 in independent form to include the subject matter of independent claim 57 by this amendment in order to receive an instant Notice of Allowance for this patent application. Nevertheless, Applicant disagrees with the rejection of claim 57 and is entering the following comments into the record as to why claim 57 should not be rejected:

In former claim 57, Applicant claims:

"providing a display displaying an indicator and a menu comprising a plurality of menu items, said indicator being located within one of a plurality of menu items in said menu; and

pressing a button on a remote controller causing a size of said menu on said display to change while causing said indicator to be automatically repositioned within the changed menu".

In Paper No. 43, the Examiner states that this is all taught by Bertram, and in particular col 5 and FIGS. 2A and 2B of Bertram. Applicant disagrees for the following two reasons:

1. Bertram does not fairly teach or suggest changing a size of a menu

In Applicant's claim 57, Applicant claims that "causing a size of said menu on said display to change...". The Examiner submits that FIGS. 2A and 2B of Bertram teach this changing a size of a menu. Applicant disagrees. Applicant submits that these figures of Bertram are about selecting an item in a main menu and then showing a different submenu. Applicant submits that the submenu of FIG. 2B is a different menu than the main menu of FIG. 2A of Bertram. Because the submenu of FIG. 2B is a different menu with different menu items than the main menu, Applicant submits that Bertram can not possibly teach Applicant's claim 57. This is because Applicant's claim 57 clearly claims that the changed size menu is the same menu as the original menu. This is evidenced by the words "said menu" on the fourth line of Applicant's claim 57. Because of this, it was inappropriate for the Examiner to apply a reference that teaches producing an entirely different submenu to reject a claim merely changes the size of a menu. Therefore, the rejection is without merit.

Applicant's claim 57 is claiming the embodiment of FIGS. 8, 9A, 9B, 10, 11A and 11B of Applicant's specification. These figures and Applicant's claim 57 are about enlarging or reducing a size of a menu on a screen, not about displaying a new menu or a submenu with different menu items. Applicant submits that Bertram is devoid of any teaching regarding menu enlargement/reduction. Bertram is about producing a submenu with different menu items from the

main menu when an item on the main menu is selected. Therefore, Applicant submits that it was inappropriate for the Examiner to apply Bertram against Applicant's claim 57.

2. It was inappropriate for the Examiner to assert that it would be obvious to replace the keyboard in Bertram with a remote controller

In Applicant's claim 57, Applicant claims that it is a button on a remote controller that is pressed to change the size of the menu. In Bertram, it is the keyboard and not the mouse that selects a menu item causing a new submenu to be displayed. In Paper No. 43, the Examiner admits that Bertram does not teach "pressing a button on a remote controller" for selection but states that "It would have been obvious to one of ordinary skill in the art at the time [of] the invention was made to replace the input device (13, 21) by an alternative input device that is functionally equivalent because it is well known to utilize a variety of input device [for] the purpose of cursor manipulation." Applicant disagrees. Applicant submits that Bertram specifically teaches against selection of a menu item by the mouse and thus teaches away from Applicant's claim 57.

Bertram pertains to a display that displays menus and a cursor, the position of the cursor being controlled by both the mouse and the keyboard. Bertram seeks to improve the effectiveness of combining keyboard entry with mouse entry (see col 1, lines 15-18 of Bertram). Both keyboard and mouse in Bertram are wireline, and the mouse has a trackball. In Bertram, the automatic repositioning of a cursor occurs only when selection of a menu item is done via keyboard. Bertram
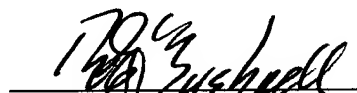
specifically does not allow selection of a menu item using the mouse. The automatic repositioning of the cursor in Bertram does not occur when the menu selection is accomplished via the mouse. Bertram intentionally sets it up this way so that cursor control is intuitively obvious to a user as discussed in column 2, lines 3-10 of Bertram, because operating systems do not ordinarily reposition the cursor upon menu selection when it is the mouse and not the keyboard that does the selecting.

Applicant's claim 57 discusses cursor control using a remote control, which is more akin to the mouse in Bertram than the keyboard. This is because the mouse in Bertram is more remote than the keyboard and the mouse in Bertram has a trackball to gradually slide the cursor across the display as opposed to moving the cursor in increments. Also, like Applicant's remote control, the mouse in Bertram moves the cursor across the display gradually as opposed to incrementally when the keyboard in Bertram is used to move the cursor. Because it is the keyboard and not the mouse of Bertram where automatic cursor repositioning occurs, Applicant submits that Bertram does not and can not teach Applicant's claim 57. This is because Bertram as a whole teaches that one having ordinary skill would expect that a mouse or a remote control will not be able to and should not be able to cause the cursor to be automatically repositioned when it is the mouse or remote control that makes a menu selection. In fact, Bertram teaches away from Applicant's claim 57 in this regard because Bertram makes it very clear (see column 2, lines 3-10 of Bertram for example) that the remote mouse with the trackball that causes the cursor to gradually move across the display does not and can not cause the cursor to be repositioned upon menu selection. For this reason, the claim rejection of claim 57 using Bertram in Paper No. 43 is without merit.

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A fee of $400 is incurred for the addition of two independent claims in excess of 3. Additionally, a petition for a one month extension of time accompanies this Amendment. The Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of $120.00. Should the petition become lost, the Commissioner is requested to treat this paragraph as a petition for an extension of time.

In view of the foregoing amendments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. If there are any questions, the Examiner is asked to contact the Applicant's attorney.

Respectfully submitted,

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